

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pasadena Neighborhood Coalition,

Complainant,

vs.

Altrio Communications, Inc.,

Defendant.

Case 02-11-053
(Filed November 19, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON REQUEST FOR COMMENT PERIOD ON
MODIFIED PRESIDING OFFICER'S DECISION**

1. Summary

By letter dated November 20, 2003, defendant Altrio Communications, Inc. (Altrio), requested that the Modified Presiding Officer's Decision (MODPOD) in this matter be open for public comment. Altrio relies on Rule 77.1 of the Commission's Rules of Practice and Procedure¹ in making its request. By letter dated November 25, 2003, complainant Pasadena Neighborhood Coalition (Coalition), relying on Rule 77 *et seq.*, makes its own request for public comment on the MODPOD.

¹ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations, and citations to sections refer to the Public Utilities Code.

Both Altrio and the Coalition misread the Rules. This proceeding was initially categorized as adjudicatory, in accordance with § 1701.1. The categorization was confirmed in the Scoping Memo and Ruling of Assigned Commissioner (March 19, 2003). Rule 8.2 governs decisions, appeals, and requests for review in adjudicatory proceedings. Rule 77.1 provides that the public comment procedures on proposed decisions apply to “all rate-setting or quasi-legislative matters which have been heard,” but does not include adjudicatory matters that have been heard. Rule 77.7, which covers public comment on draft decisions, expressly exempts from its requirements decisions “on an appeal from the presiding officer’s decision in an adjudicatory proceeding. . .” (Rule 77.7(e)). The requested comment period is foreclosed by the adjudicatory nature of this proceeding.

The Rules provide the parties appropriate opportunities to affect the Commission’s decision in this proceeding. Both Altrio and the Coalition have filed appeals of the Presiding Officer’s Decision pursuant to Rule 8.2. The next step in the process is the Commission’s decision on those appeals. After the Commission’s decision, any party may apply for rehearing pursuant to § 1731 and Rules 85-86.

IT IS RULED that the requests of Altrio Communications, Inc. and Pasadena Neighborhood Coalition for a public comment period on the Modified Presiding Officer’s Decision are denied.

Dated December 2, 2003, at San Francisco, California.

/s/ ANNE E. SIMON

Anne E. Simon
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, this day served a true copy of the original attached Administrative Law Judge's Ruling On Request For Comment Period on Modified Presiding Officer's Decision on all parties of record in this proceeding or their attorneys of record.

Dated December 2, 2003, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.